

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the General Investigation to)
Examine Issues Surrounding Rate Design for) Docket No. 16-GIME-403-GIE
Distributed Generation Customers.)

**RESPONSE OF COMMISSION STAFF TO THE PETITION FOR
RECONSIDERATION BY CLIMATE AND ENERGY PROJECT OF THE
COMMISSION'S ORDER OF SEPTEMBER 21, 2017**

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) submits its Response to the Petition for Reconsideration ("PFR") by Climate and Energy Project ("CEP") of the Commission's Order of September 21, 2017, regarding the general investigation into matters surrounding rate design for distributed generation ("DG") customers. In support of its Response, Staff states as follows:

1. On September 21, 2017, the Commission issued its Final Order in this docket, which generally approved the Non-Unanimous Stipulation and Agreement ("S&A"), and specifically, that DG customers are subsidized by their non-DG counterparts and the proposed rate designs, including a three part rate, is supported by substantial competent evidence.
2. On October 5, 2017, CEP filed its PFR of the Commission's Final Order, claiming five issues as follows: A) The Order's reliance on comments of parties to support its findings does not conform to rules of evidence; B) The evidence in this docket does not support a finding that residential DG usage patterns differ significantly from non-DG ratepayers; C) Proponents of the S&A failed to prove that costs to serve DG customers are greater than their non-DG counterparts; D) Proponents of the S&A failed to prove that DG customers are subsidized by their non-DG counterparts; and E) The proposed residential three part rate design is not supported by substantial competent evidence.

3. As discussed in detail below, the five claims by CEP are unsubstantiated and their Petition for Reconsideration should be denied.

A. The Order issued by the Commission conforms to the rules of evidence.

4. This statement by CEP is without merit and should be rejected. CEP did not object to the filing of comments at any point in this docket. In fact, CEP agreed the filing of comments was an appropriate medium for parties to state their respective positions.¹ “We agree this docket should include, but not be limited to identification of the issues, individual presentations from the parties, distribution of documents with affidavits, as well as written comments from the parties.”²

5. CEP further agreed with Westar’s proposed procedural schedule, which included “Initial Comments by all parties with Supporting Affidavits” and “Reply Comments with Supporting Affidavits.”³ CEP stated “We agree with Westar’s proposed procedural schedule, with one caveat.”⁴ The “one caveat” of CEP was only the request of a one-day workshop to be hosted by the Commission with a neutral third party facilitator.

6. All of the comments cited by the Commission in its Order were supported by corresponding affidavits. Any witness that testified at the Hearing on June 27-28, 2017, adopted their comments, with their affidavit, as their direct testimony. CEP, along with all other parties, had the opportunity to object to the admission of the comments of the witness. CEP did not object to the admission of the comments of any witness based on the position that their respective comments failed to conform to the rules of evidence.⁵

¹ See CEP’s Comments Regarding How General Investigation Should Proceed, p. 2 (Aug. 26, 2016).

² CEP’s Comments Regarding How General Investigation Should Proceed, p. 2 (Aug. 26, 2016).

³ Comments of Westar Energy, Inc. and Kansas Gas and Electric Company in Response to Order Opening General Investigation, p. 4 (Aug. 19, 2016).

⁴ CEP’s Comments Regarding How General Investigation Should Proceed, p. 2 (Aug. 26, 2016).

⁵ Hearing Tr. Vol. 1, p. 75 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p. 187 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p. 235 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 278 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 295 (Jun. 27-28, 2017),

7. CEP was afforded the opportunity to cross-examine every witness regarding their filed and duly admitted comments.⁶ Only after the Commission issued its Final Order, which did not endorse the position of CEP, did CEP object to the usage of the comments of the parties.

B. The evidence supports a finding that residential DG usage patterns differ significantly from non-DG ratepayers.

8. The second assertion in the PFR by CEP relies on the testimony of their witness, Rick Gilliam, and his analysis of the data received by a data request from Westar. The issue with this reliance is that the analysis by Mr. Gilliam of Westar's data is flawed and the Commission rightfully rejected it. The PFR of CEP, in paragraphs 9 and 10, discusses the analysis of Westar's data by Mr. Gilliam as Channel 1, the load of the customer Westar serves, and Channel 11, which measures the energy produced by a DG customer.

9. The flaw is that Mr. Gilliam only performed his analysis on Channel 1 when comparing the consumption between DG and non-DG customers. Under cross examination from Westar, Mr. Gilliam testified:

Q. So your conclusion that DG and non-DG customers are not very different is based on your review of data only from the hours that the customers were net purchasers of power and you did not consider the hours of when they were net seller of power. Is that right?

A. I included in the first category our hours in which their consumption was zero because they were exporting energy. As you can see from these charts, there are quite a few zeroes there, but, yes, that's right. I did not take into account in the calculation of load factor the total consumption of the customer including power sent off site.⁷

Hearing Tr. Vol. 2, p. 305 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 308 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 314 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 317 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 369 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 393 (Jun. 27-28, 2017).

⁶ Hearing Tr. Vol. 1, p.110-122 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p.168-180 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p. 204-213 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p. 228-233 (Jun. 27-28, 2017), Hearing Tr. Vol. 1, p. 252 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 279-281 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 299-302 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 306 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 310-312 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 315 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 333-337 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 362-367 (Jun. 27-28, 2017), Hearing Tr. Vol. 2, p. 391 (Jun. 27-28, 2017).

10. CEP's assertion that the usage patterns between DG and non-DG customers are similar is mistaken based on the flawed analysis as testified to by Mr. Gilliam. This is further emphasized by Dr. Faruqui, witness for Westar Energy, Inc., in his Rebuttal Testimony in Support of Stipulation and Agreement:

WHY IS MR. GILLIAM'S APPROACH ERRONEOUS?

Because even though Westar provided Mr. Gilliam all of the data it had on the DG customers, the data do not provide information that would allow Mr. Gilliam to calculate the customers' actual total consumption and load factor. Westar has no way to develop or provide the data that would support such an analysis.

WHY IS THAT?

As I stated before, the data is based on metering that only shows the amount of energy Westar delivered to the customers and the amounts they delivered to Westar. Because the DG generation is behind the Westar meter, Westar does not know how much energy the DG customers consume or when they consume it. Westar's meters only see the net effect of consumption and generation. In order to determine the customers' actual usage, Westar would have to have a meter on the customers' generation.⁸

C. Proponents of the S&A were not required to prove that costs to serve DG customers are greater than their non-DG counterparts.

11. Based on a review of the Motion to Open Docket, filed on March 11, 2016, and the Order Opening General Investigation, filed on July 12, 2016, the parties were not required to prove that the costs to serve DG customers are greater than serving non-DG customers. While the direction of this docket has slightly evolved since the Order of July 12, 2016, at no point was any party required to prove that the costs to serve DG customers are greater than serving non-DG customers. This question could be answered by an analysis of a class cost of service as discussed

⁷ Hearing Tr. Vol. 2, p. 406-407 (Jun. 27-28, 2017).

⁸ Rebuttal Testimony of Ahmad Faruqui in Support of Stipulation and Agreement, p. 4 (Jun. 26, 2017).

by Staff witness, Dr. Robert Glass.⁹ Until the class cost of service is conducted, we are faced with the classic chicken and the egg quandary, as we cannot show that costs differ across rate classes until they are separated. We need a separate class to determine whether the costs differ for DG customers. Additionally, the scope of this proceeding is not to elicit whether one customer class costs more to “serve” than another. Instead, and as discussed in greater detail below, the question the Commission inquired into is whether one rate class is subsidizing another.

D. Proponents of the S&A did prove that DG customers are subsidized by their non-DG counterparts.

12. Under cross-examination by CEP, Dr. Faruqui testified on point as to the subsidization of DG customers by non-DG customers. “That’s what at least my testimony has been about is to try to make the point that they [DG customers] are not fully paying for the grid cost, so somebody else has to make up the difference. They are being subsidized by their neighbors and friends without knowing it perhaps on either side of the transaction.”¹⁰

13. Additionally, Dr. Glass testified under cross-examination by CEP, that “...it’s pretty clear in there that they [DG customers] use less [energy from the grid] than regular customers. The rate design was set up for regular customers. By using less, they are not going to pay as much demand [charge].”¹¹ Paragraph 22 of the Commission’s Final Order in this docket found that “DG customers are thus being subsidized by non-DG customers.”

E. The proposed residential three part rate design is supported by substantial competent evidence.

14. The three part rate design is supported by the testimony of Dr. Faruqui. Under cross examination by Cromwell Environmental, he testified that:

⁹Hearing Tr. Vol. 2, p. 320 (Jun. 27-28, 2017).

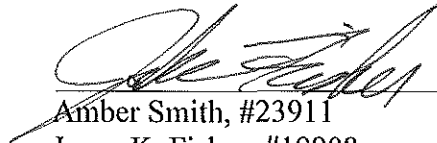
¹⁰Hearing Tr. Vol. 1, p. 230 (Jun. 27-28, 2017).

¹¹Hearing Tr. Vol. 2, p. 336 (Jun. 27-28, 2017).

The volumetric charge has embedded in it a contribution to the capacity cost, sometimes also called demand cost, and when their (DG customers) usage drops, the volumetric charge drops which also means they don't pay the full cost of being connected to the grid, so that has to be made up by the other customers, so their bill went down too much on the two-part rate compared to what it's costing to serve them. So that's why the rate is being changed. It's not to be unfair or penalize them, it's to prevent their neighbors from being unfairly penalized.¹²

15. Dr. Faruqui's testimony on cross-examination clearly establishes the basis on which the Commission found a three part rate design could be supported.

WHEREFORE, Staff would respectfully request the Commission deny the Petition for Reconsideration of Climate and Energy Project and for any other relief which may be appropriate in this matter.



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¹²Hearing Tr. Vol. 1, p. 201 (Jun. 27-28, 2017).

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I, the undersigned, certify that a true and correct copy of the above and foregoing Response of Commission Staff to the Petition for Reconsideration by Climate and Energy Project of the Commission's Order of September 21, 2017 was served via electronic service this 16th day of October, 2017, to the following:

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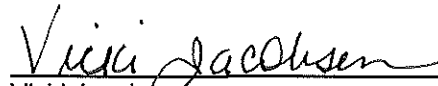
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